

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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COMMUNICATIONS SECTION
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In the Matter of)
)
Replacement of Part 90 by Part 88 to)
Revise the Private Land Mobile Radio)
Services and Modify the Policies)
Governing Them)
)
and)
)
Examination of Exclusivity and)
Frequency Assignment Policies of the)
Private Land Mobile Radio Services)

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PR Docket No. 92-235

TO: The Commission

PETITION FOR RECONSIDERATION

Pursuant to Section 1.429 of the Commission's Rules, UTC, The Telecommunications Association (UTC),¹ respectfully requests reconsideration of some of the rule changes adopted in the *Report and Order*, FCC 95-255, released June 23, 1995, in the above-captioned rulemaking proceeding.² In this proceeding, the FCC has adopted rules and policies looking toward the more efficient use of the private land mobile radio (PLMR) spectrum below 512 MHz.

¹ UTC, The Telecommunications Association. was formerly known as the Utilities Telecommunications Council.

² The *Report and Order (R&O)* was published with a related *Further Notice of Proposed Rulemaking (FNPRM)*

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UTC is the national representative on communications matters for the nation's electric, gas and water utilities and natural gas pipelines. UTC is also the FCC's certified frequency coordinator for the Power Radio Service. Approximately 2,000 utilities and pipeline companies are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers, to small, rural electric cooperatives and water districts serving only a few thousand customers. All utilities and pipelines depend on reliable and secure communications facilities in carrying out their public service obligations. In order to meet these requirements, utilities and pipelines operate extensive private land mobile radio systems.

UTC has been an active participant in this proceeding, filing Comments and Reply Comments in response to the *Notice of Proposed Rulemaking*, 7 FCC Rcd 8105 (1992), and in response to the predecessor *Notice of Inquiry* in PR Docket No. 91-170, 6 FCC Rcd 4126 (1991). UTC has also participated in numerous meetings with the FCC staff and other industry representatives in order to achieve consensus on the many difficult issues raised by this proceeding.

At the outset, UTC applauds the Commission and its staff for developing a flexible framework for the introduction of new technologies in these very important PLMR bands. Recognizing that the policies adopted in this proceeding must guide users' plans over the next 10-20 years, the FCC has quite appropriately set guidelines for the development of more efficient radio technologies, leaving to users the choice of when and how to introduce those technologies in their current systems. As noted in the *Report and*

Order, these bands currently support some 12 million transmitters with an aggregate value of 25 billion dollars.³ UTC is pleased that the Commission modified some of its original proposals that, in many cases, would have required users to make costly and inefficient equipment changes simply for the sake of change.

UTC is aware that the Land Mobile Communications Council (LMCC) is separately filing a petition regarding several issues on which the PLMR industry as a whole requests clarification or reconsideration. Among the issues that will be raised in the LMCC petition are those relating to:

- Formal recognition of the authority required by frequency coordinators to effectively perform their responsibilities;
- Acceptable station identification for digital transmissions;
- Requirements for waivers under the “safe harbor” power/antenna height tables for the 150-174 MHz and 450-470 MHz bands;
- Grandfathering provisions applicable to existing facilities; and
- The effective date for use of 7.5 kHz channels in the 150-174 MHz band.

As a member of LMCC, UTC fully supports the LMCC petition, and urges clarification or reconsideration on these issues.

In addition, UTC requests clarification or reconsideration on the issues described below.

³ *Report and Order*, para. 2.

Power/Antenna Height Limits

In order to curtail “overly powerful systems” and to simplify reuse of channels at standard 50-mile spacings, the FCC originally proposed stringent limits on effective radiated power (ERP) and antenna height above average terrain (HAAT).⁴ UTC objected to these arbitrary and unrealistic limits on ERP and HAAT, particularly as applied to the wide-area systems typically employed by public service utilities and natural gas pipelines. As an alternative to the arbitrary power limits proposed in the *NPRM*, UTC supported the “safe harbor” table of power/height combinations proposed by LMCC. The principal distinction between the power/height reduction tables proposed in the *NPRM* and the “safe harbor” tables proposed by LMCC is that the FCC’s original proposal would restrict radio service to arbitrary service radii, whereas the LMCC safe harbor table would provide a convenient method for frequency coordinators and the FCC to verify that an applicant is only requesting enough power to meet its coverage requirements. UTC also supported LMCC’s request for a regular procedure under which an applicant could request powers/heights in excess of the values given by the tables if necessary to meet specific requirements; for example, to ensure signal penetration in high noise environments or to ensure coverage into shadow areas at the fringe of the nominal service area.

To a large extent, the rules as adopted reflect the concepts behind the LMCC “safe harbor” tables. An applicant is generally not restricted in the size of the service area it

⁴ *NPRM*, 7 FCC Rcd at 8113.

may request, but it must be able to demonstrate that its particular power/height combination is not excessive given the area needed to be served. The rules further allow an applicant to make a special showing if the table would produce an anomalous result, with the frequency coordinator given authority to review and initially pass on the sufficiency of the showing. The Commission has also exempted existing stations, including new stations functionally integrated with existing systems, from complying with these rules. UTC supports these concepts.

However, clarification or reconsideration is requested to the extent that the rules would classify all base stations with a service area radius greater than 80 km (50 mi.) as “secondary.”⁵ First, there are numerous areas of the country, particularly in the West, where suitable transmitter sites are not widely available, and applicants such as utilities, needing coverage over a defined service area must design systems to maximize coverage from the few suitable sites that are available. Unlike commercial carriers that define their service areas by reference to their authorized radio coverage, utilities, pipelines and many other PLMR users design radio systems to cover service areas that are dictated by their public service franchises or the nature of their physical plant and other operations. It would ill-serve the public interest if, for example, a public service utility were forced to accept secondary status for its PLMR base station facilities simply because the utility optimized the use of available transmitter sites to achieve requisite signal coverage.

⁵ See new Sections 90.205(d)(3) and 90.205(g)(3).

To correct this anomaly, UTC recommends that the second sentence of Sections 90.205(d)(3) and 90.205(g)(3) be revised as follows:

. . . Base stations with a service area radius greater than 80 km (50 mi.) will be authorized on condition that operations beyond 80 km will not be protected from interference, except in any case where the applicant demonstrates that (a) its operations require protection beyond 80 km, and (b) use of additional transmitter sites to achieve this coverage is not practicable.

UTC also requests clarification that the power/height tables of Section 90.205 do not apply to the utility load shedding frequency (154.46375 MHz).⁶ This frequency is currently limited to a maximum output power of 300 watts for fixed station use. Because this frequency is one of the “splinter” frequencies that are not subject to refarming, there would seem to be no point in changing the licensing procedures or requirements for this channel. UTC also notes that Section 90.205 provides that the power and antenna height limits of that section will apply “[e]xcept where otherwise specifically provided for.” Since an output power limit is already established for this channel, the FCC should clarify that utility load shedding operations on this channel will not be subject to the power/height restrictions of Section 90.205

Coordinator Responsibilities

The *R&O* provides flexibility to the certified frequency coordinators for each of the radio services to review applicants’ power/height combinations,⁷ to develop channel

⁶ See 47 C.F.R. § 90.63(d)(6).

⁷ *R&O*, paras. 71-72.

use plans for the former offset channels in the 450-470 MHz band,⁸ and to determine recommended separation distances between systems.⁹ In addition, the *R&O* signals the FCC's intent to consolidate the various radio services into as few as 2-4 radio services, subject to further comment from the industry. Such consolidation would be accompanied by competitive frequency coordination among the coordinators for each of the radio services included in a consolidated radio service.

These rule changes and proposed rule changes suggest that frequency coordinators, acting alone in a single radio service or in consultation with other coordinators in a consolidated service, must have authority to develop channel use plans that will meet the needs of the users in that service. For example, UTC would see a real benefit in being able to designate certain channels in the Power Radio Service as "mutual aid" channels that would be available for disaster restoration and other emergency situations. For example, after Hurricane Andrew, a large number of utilities in the Southeastern United States sent work crews to Florida to help in the restoration of electric, gas and water service. However, the majority of these crews could not readily communicate with one another to coordinate activities because of a lack of common operating frequencies. Hurricane Andrew is not an isolated incident. Every year there are hundreds of storms and natural disasters that require intercommunication among neighboring utilities.

⁸ *R&O*, para. 64.

⁹ *R&O*, para. 76.

UTC would therefore like clarification that coordinators, acting alone in their own radio service or working with other coordinators in a consolidated radio service, will have authority to control licensing on channels within the pool in ways that will promote the overall best interests of the users of that radio service.

Finally, to the extent that trunking will be allowed in the bands below 512 MHz, the FCC should clarify that frequency coordinators have the authority to designate channel pairs for the use of trunked repeater systems.

Conclusion

While UTC generally supports the *Report and Order* as representing a reasoned and balanced approach to the introduction of more efficient technologies into the PLMR spectrum below 512 MHz, UTC seeks reconsideration or clarification with regard to the application of certain aspects of the FCC's decision. Specifically, UTC seeks clarification or reconsideration to the extent that the new power and antenna height limits would arbitrarily classify all base stations with a service area radius greater than 80 km (50 mi) as secondary. Such an inflexible requirement would hinder the ability of public service utilities in certain parts of the country to meet their coverage requirements. In addition, the FCC needs to clarify that the power/height tables do not apply to the use of the utility load shedding frequency.

Finally, the FCC needs to clarify that coordinators, acting alone in their own radio service or in conjunction with other coordinators in a consolidated radio service, will


have the authority to control licensing on channels within the pool in ways that will meet the specific requirements of the users of that radio service. In this way, coordinators will be able to establish certain channels as being available for mutual aid or emergency communications.

WHEREFORE, THE PREMISES CONSIDERED, UTC respectfully requests the Commission to take actions consistent with the views expressed herein.

Respectfully submitted,

UTC

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